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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,383

04/29/2005

Johannes Antonius Reinders

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7590

11/13/2009

HOWREY LLP-EU

C/O IP DOCKETING DEPARTMENT

2941 FAIRVIEW PARK DR., SUITE 200

FALLS CHURCH, VA 22042

EXAMINER

FLANIGAN, ALLEN J

ART UNIT

PAPER NUMBER

3744

MAIL DATE

DELIVERY MODE

11/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/533,383

Applicant(s)REINDERS, JOHANNES
ANTONIUS**Examiner**

Allen J. Flanigan

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/2/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 10-14, 16-18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) 13, 14, 18 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-6, 10-12 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 13, 14, 16-18, and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention or species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/30/2008.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6, 10, 11, 21, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yasutake et al. in view of Lamich.

Please see the comments made in regard to the above rejection in the Office Action dated 9/28/2008.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yasutake et al. in view of Lamich as applied to claim 21 above, and further in view of Sakai.

Please see the comments made in regard to the above rejection in the Office Action dated 9/28/2008.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yasutake et al. in view of Lamich as applied to claim 11 above, and further in view of Takai et al.

Please see the comments made in regard to the above rejection in the Office Action dated 9/28/2008.

Applicant's arguments filed 3/26/2009 have been fully considered but they are not persuasive.

The applicant's arguments are predicated on the presumption that the amendment made to the claims reciting an "adhesive heat seal layer" defines over the brazing bonding process disclosed in Yasutake et al. This presumption is incorrect.

During prosecution, the PTO is required to "[apply] to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification."¹ No explicit definition is given in the specification limiting the term "adhesive" to nonmetallic adhesive bonds, and a reasonably broad definition of the term adhere would certainly include metallic adhesive bonds such as brazing or soldering. Dictionaries define "adhesive" as tending to adhere or cause adherence, and "adhere" is defined as "to hold fast or stick by *or as if by* gluing, suction, grasping, or *fusion*"². Brazing or soldering clearly falls within this definition. Moreover, usage in the art clearly encompasses brazing within the bounds of "adhesive"; note US patents No. RE 29,785 which refers to "metallic adhesive bonds, such as brazing or soldering", and

¹ MPEP 2111.

² Found at Merriam Webster Online Dictionary: <http://www.merriam-webster.com/dictionary/adhere>

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#5,547,121 which speaks of braze that forms an adhesive bond between diamond and tungsten carbide. Even if applicant's claims were properly limited to nonmetallic adhesive bonding or gluing, they would not be patentable, as the use of nonmetallic (e.g. polymer based) adhesives is well known in the art of heat exchanger manufacturing, and manufacturing/assembly in general.

This is an RCE of applicant's earlier Application of the same serial number. All claims are drawn to the same invention claimed earlier in the application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered earlier in the application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is effectively a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen J. Flanigan whose telephone number is (571) 272-4910. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Allen J. Flanigan/
Primary Examiner, Art Unit 3744